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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,167	02/26/2004	Thomas Herrmann	076326-0273	9137
22428 7590 06/05/2007 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER WILHELM, TIMOTHY	
			ART UNIT 3616	PAPER NUMBER
			MAIL DATE 06/05/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/786,167

**Applicant(s)**

HERRMANN, THOMAS

**Examiner**

Timothy D. Wilhelm

**Art Unit**

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4,6-21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-8,13,15-17,20,21 and 23 is/are rejected.
- 7) ☒ Claim(s) 9-12,14,18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/13/2007</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This action is made in response to arguments submitted by Applicant on 3/13/2007.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2,4,6-8,13,20-21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrmann et al (DE 10119810) in view of Biller et al (US 2004/0000783). Herrmann et al disclose a height-adjustable, belt-deflecting device 10 for a seat belt 90, the device comprising a deflecting element 30 which deflects the seat belt 90, a tightening device 36 with which the seat belt 90 can be tightened, wherein the deflecting element 30 is connected to the tightening device 36. The tightening device 36 is configured so that it pulls or pushes the deflecting element 30 essentially vertically upwards to tighten the seat belt 90 and has a tightening spring 16, which acts on the deflecting element 30 to tighten the seat belt 90. With regard to claims 18 and 19, the tightening spring 16 of Herrmann is a compressed-air spring connected to a pump device 26 with which the compressed-air spring 16 can be placed under pressure. Herrmann et al disclose the present invention except for the tightening device comprising a driving motor for placing a tightening spring under a predetermined prestress. Biller et al teach a seat belt tensioner comprising a driving motor with a

pinion gear 46 connected to a driving shaft, said motor engages a rack 22 and moves said rack to tighten a helical tightening spring 18 place it under a predetermined prestress. The motor, rack, and spring assembly of Biller et al may be oriented to move in any way to achieve the desired movement, i.e. push or pull, of the deflecting element. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the height adjusting device of Herrmann et al with the teaching of Biller et al's tightening device so as to provide a simple belt tensioner, which can easily be returned to its initial position.

4. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrmann et al and Biller et al as applied to claims 1-8,13, and 18-23 above, and further in view of Autoliv-Kolb (DE 4020600). Herrmann et al and Biller et al disclose the present invention except for an electrically controlled locking device. Autoliv-Kolb teaches a seat belt tightening device comprising an electrically controlled locking device 20, which engages a moveable rack 15. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teaching of Autoliv-Kolb of an electrically controlled locking device to the seat belt tightener of Kopetzky for a more reliable response to a vehicular collision.

***Allowable Subject Matter***

5. Claims 9-12,14, and 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments filed 3/13/2007 have been fully considered but they are not persuasive. Applicant argues that the rejection using Hermann in view of Biller et al is improper because Biller et al "does not suggest that the arrangement is suitable for pushing a deflecting element." Examiner maintains his rejection because Biller et al teach the structure of the present invention and Applicant is merely arguing intended use of the structure. Examiner further maintains that this rejection is proper under the idea that it would have been obvious to combine the tightening motor and spring arrangement of Biller et al with the deflector moving device of Hermann to provide a simple belt tensioner, which can easily be returned to its initial position.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

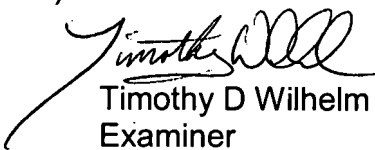
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Wilhelm whose telephone number is 571-272-6980. The examiner can normally be reached on 9:00 AM to 5:30 PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 5/29/2007  
Timothy D Wilhelm  
Examiner  
Art Unit 3616

TDW

 5/29/07  
PAUL N. DICKSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600